

EM ARTICLE EVALUATION FORM

Article Title: U.S. EPA's 'Back to Basics' Process for Review of the National Ambient Air Quality Standards)

Author(s): Dominguez and Woods

Reviewer: [name withheld]

Article Evaluation:

Your comments should address the article's originality, technical quality, and clarity of presentation. Please consider the following questions in your evaluation:

1. Is the article of general interest to *EM* readers (who are primarily A&WMA members)? **Yes**
2. Would the article make a compelling feature in *EM*; that is, is it really just a modified technical or executive paper, or is it a compelling and interesting read? **Yes**
3. Does the article address an important and timely environmental topic that is appropriate for *EM*? **Yes**
4. Is the information accurate and up to date, and is it presented in a clear uniform manner (i.e., introduction, main argument/discussion, conclusion)? **Yes**
5. Is the information unbiased and not written in a self-promotional manner (A&WMA discourages articles that are overly promotional of a commercial product, company, or organization)? **Yes**

General Comments:

1. This is a very good and complete review of EPA activities on NAAQS.
2. There are numerous "wording" choices that might improve the article – see attachment for some suggestions that hopefully will be helpful.
3. A Conclusions section should be added.

Summary Recommendation:

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XXX Publish with minor or no revision

U.S. EPA's "Back-to-Basics" Process for Review of the National Ambient Air Quality Standards

Alexander Dominguez, Policy Analyst, U.S. EPA, Office of Air and Radiation
 Clint Woods, Deputy Assistant Administrator, U.S. EPA, Office of Air and Radiation

Consistent with the Administration's commitment to regulatory reform, cooperative federalism, and domestic manufacturing, the U.S. Environmental Protection Agency (EPA) is working to review and reform the National Ambient Air Quality Standards (NAAQS) program of the Clean Air Act (CAA). These efforts include a focus on getting "Back-to-Basics" for NAAQS setting, designations, and implementation. The U.S. has experienced tremendous progress in addressing criteria pollutants and their precursors. As a result of the challenges in implementing a number of increasingly stringent NAAQS while also facing several upcoming NAAQS review~~for the coming reviews for several pollutants~~, there is a unique opportunity for the Agency, based on direction from President Trump, to make meaningful change to the program to ensure a timely, efficient, and transparent process that continues to support public health and the environment, state agency resources, and robust economic activity.

Background

As readers of *EM* likely know, EPA sets primary and secondary NAAQS for criteria air pollutants that include ozone, nitrogen dioxide, sulfur dioxide, coarse and fine particulate matter, carbon monoxide, and lead. These standards reflect the best, current scientific information while protecting public health and the environment. Primary NAAQS are set, based on the judgment of the Administrator and allowing an adequate margin of safety, ~~at~~ to a level to protect the public health. Secondary NAAQS are set at a level to protect the public welfare, which may include effects on soils, water, crops, vegetation, and visibility from the presence of the pollutant in the ambient air. Under the ~~Clean Air Act~~ CAACAA, the Agency is required to review each NAAQS every five years. However, EPA has often failed to do so, ~~sometimes routinely~~ taking twice that amount of time before finalizing a review and any accompanying revision. These delays result in uncertainty as well as lost opportunities for implementing the NAAQS to protect health and the environment in a manner compatible with a robust American economy.

In setting the NAAQS, the EPA Administrator receives advice from a critical federal advisory committee described in the ~~Clean Air Act~~ CAA, the Clean Air Scientific Advisory Committee (CASAC). EPA staff in the Offices of Research and Development and Air and Radiation develop a comprehensive scientific and technical assessment, which CASAC reviews in the process of providing advice to the Administrator. Subsequently (comment: some could read this as mandating that CASAC advice be followed) ~~Following this advice,~~ EPA publishes a notice of proposed rulemaking with the Administrator's proposal for public comment regarding any revision to the NAAQS. Based on a consideration of all significant public comments received, the Administrator reaches a final decisions on the NAAQS and issues a final rule to either maintain the current NAAQS or sets a revised new standard(s). If EPA sets a new NAAQS or

revises an existing standard, within two years the Agency, based on the recommendations of governors, designates areas as attaining or not attaining the standard.

Each NAAQS revision requires significant new planning and permitting for states and regulated entities, and a nonattainment designation can create challenges for the construction or expansion of industrial facilities. Under the NAAQS program, EPA and states cooperatively as co-regulators has a central role in carrying out the Clean Air Act's mission of protecting human health and the environment. To effectively performing EPA's role in, successful and efficient implementation of the standards, and any revisions to the standards, must be done in a manner consistent with the principles of cooperative federalism and complying with the statutory requirements.

Back-to-Basics

In April 2018, President Donald Trump issued a memorandum, *Promoting Domestic Manufacturing and Job Creation – Policies and Procedures Relating to Implementation of Air Quality Standards*. The Presidential Memorandum includes nine primary directives to ensure EPA's efficient and costeffective implementation of air quality standards under the NAAQS and regional haze programs. While these directives are outlined in [TABLE 1], it should be clear ~~(The~~ themes of timeliness, cooperative federalism, and recognition of international and background sources of pollution are critical issues the Agency should address to ensure states can successfully implement the standards.

To advance the initiatives set out in President Trump's memorandum, EPA issued a memorandum, *Back-to-Basics Process for Reviewing National Ambient Air Quality Standards*, in May 2018. EPA's memorandum directs the Agency and its independent science advisors to follow five principles for a transparent, timely, and efficient process in reviewing and revising future public health and welfare based NAAQS.

Principle 1: Meet Statutory Deadlines

As noted above, EPA routinely fails to meet the ~~Clean Air Act~~CAA requirements to review each NAAQS every five years. These delays result in uncertainty as well as lost opportunities for implementing the NAAQS to protect health and the environment in a manner compatible with a robust American economy. EPA and CASAC are encouraged to look for efficiencies and opportunities to streamline the NAAQS review process to ensure that it is they finished within a five-year interval. The Back-to-Basics memo also directs the Agency and CASAC to ensure that any potential revisions to the NAAQS for ozone or particulate matter, last set in 2015 and 2012 respectively, can be finalized by late 2020.

Principle 2: Address ~~Clean Air Act~~CAA Provisions for NAAQS Reviews

While the ~~Clean Air Act~~CAA clearly identifies the roles and responsibilities of CASAC in providing important advice in the review of air quality criteria, EPA has frequently failed to request that the committee provide advice per all CASAC duties specified in the ~~for several the statutory provisions~~. For example, Section 109(d)(2)(C) requires CASAC to advise the Administrator on the “relative contribution to air pollution concentrations of natural as well as anthropogenic activity” as well as “any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such” NAAQS. To address these inconsistencies, EPA intends to provide CASAC with a standardized set of key charge questions to frame the entirety of the NAAQS review. These charge questions may elicit information which is outside the scope of the Administrator’s standard-setting process, but which ~~they~~ should provide important policy context for the public, co-regulators, and EPA.

Principle 3: Streamline and Standardize the Process for Development and Review of Key Policy Relevant Information

CASAC has frequently identified reducing the length and complexity of the scientific assessments as a key process improvement for streamlining NAAQS reviews and ensuring the Agency adheres to the statutory deadlines. To help bridge the gap between the scientific assessments and the judgments required of the Administrator, the memorandum recommends incorporating policy-relevant science earlier into the review process. EPA is also directed to ensure that the initial drafts of all technical and policy assessments are high quality and ready for robust review from CASAC and the public.

Principle 4: Differentiate Science and Policy Considerations in NAAQS Review Process

The Back-to-Basics memo directs EPA to establish a clearer distinction between its scientific findings (contained in the Integrated Science Assessment) and the wider range of policy concerns that the Administrator may consider in judgments about the level of the NAAQS. CASAC and ~~EPAS~~ should seek to find consensus, but should allow for individual advisors to share their individual perspectives.

Principle 5: Issue Timely Implementation Regulations and Guidance

When a NAAQS is revised, EPA should strive to swiftly release implementation tools for co-regulators, including regulations, guidance, and technical information assist state agencies in developing approvable plans. In the past, EPA implementation regulations and guidance have often trailed NAAQS revisions by years, which may hinder co-regulators from completing the required steps to administer the NAAQS at the state level. Failure to issue timely implementation regulations and guidance may contribute to nonattainment areas not attaining the NAAQS as quickly as practicable, as well as the misallocation of state planning resources.

Flexibilities

Based on requirements in the ~~Clean Air Act~~CAA and the President’s April 2018 memorandum, EPA has also committed to a number of important milestones in collaboratively implementing

NAAQS. Many of these critical measures have been incorporated in the Agency's FY2018 – FY2022 strategic plan as well as other EPA priority documents. These efforts include:

- As an agency priority goal, ~~EPA will reduce~~ the number of NAAQS nonattainment areas, including a 20 percent reduction in these areas in the next few years.
- ~~The Agency is addressing~~ the backlog in state implementation plan revision submissions, which the ~~Clean Air Act~~ CAA directs EPA to act upon within 18 months of submission.
- Pursuant to Section 319B of the ~~Clean Air Act~~ CAA, ~~EPA is releasing~~ and communicating a number of tools related to the exclusion of NAAQS data for “exceptional events” outside the control of state, local, or tribal air agencies. Since 2016, EPA has acted upon more than 20 “exceptional event” demonstrations, nearly all of which concurred with state recommendations and thus provided the state with regulatory relief.
- ~~EPA is committed to~~ Maximizing flexibility for other tools for regulatory relief, including ~~Clean Air Act~~ CAA provisions to address emissions caused by international sources.
- ~~Later this year, EPA will~~ Working closely with states to facilitate the submission of approvable “Good Neighbor” state implementation plans for the 2015 ozone NAAQS.
- ~~EPA has recently announced a decision to~~ Revisiting aspects of the previous Administration’s regional haze rule, including and will be identifying flexibilities and technical tools for state plans due in 2021.
- ~~The Agency is taking action to~~ Simplifying the New Source Review process and has committed to reducing, by 50 percent, the number of permitting-related decisions that exceed six months by October 2019.